



November 10, 2016

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, D.C. 20554

RE: *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42;  
*Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197;  
*Connect America Fund*, WC Docket No. 10-90;

Dear Ms. Dortch:

Please include the following comments in the above referenced dockets. If there are any questions, please call me on 301-738-0020.

Respectfully submitted,

Via ECFS 11/10/16

Jeffrey H. Smith  
President and CEO

David B. Cohen  
Senior Policy Advisor

Copy to:     Lisa Hone  
                 Stephanie Weiner  
                 Matt Del Nero  
                 Carol Matthey  
                 Trent Harkrader  
                 Garnet Hanley  
                 Christian Hoefly  
                 Ryan Palmer

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Lifeline and Link Up Reform and	)	WC Docket No. 11-42
Modernization	)	
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	
Connect America Fund	)	WC Docket No. 10-90

**COMMENTS OF  
GVNW CONSULTING, INC.**

GVNW Consulting, Inc. (“GVNW”)<sup>1</sup> respectfully submits these comments in support of the Petition for Waiver (“*Waiver Petition*”) submitted on October 24, 2016, by NTCA – The Rural Broadband Association and WTA – Advocates for Rural Broadband (“*the Rural Associations*”) in the above captioned proceeding.<sup>2</sup> In the Waiver Petition, the Rural Associations seek a temporary waiver for their members and similarly situated RLECs of the language contained in the *Lifeline Modernization Order* that requires “ETCs receiving high-cost

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<sup>1</sup>GVNW Consulting, Inc. is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

<sup>2</sup>See Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016 (“*Lifeline Modernization Order*”).

support [to] offer a Lifeline-supported standalone broadband offering where the ETC is required to offer Lifeline-supported BIAS.”<sup>3</sup>

**I. The Temporary Waiver Should be Granted When an RLEC Certifies That the Price of the Compelled Standalone Broadband Offering Would be Equal to or Exceed That of a Bundled Offering from the Same RLEC**

The Rural Associations’ waiver request should be granted for those RLECs that provide a certification to the Wireline Competition Bureau, prior to the December 2, 2016, date for implementation of the new Lifeline rules, that the rate for a Lifeline standalone broadband offering would exceed the rate for a currently offered voice and broadband bundle from that RLEC. This approach would address any concerns by the Commission that the situation asserted in the waiver petition does not exist, and would accurately target relief to companies and customers who otherwise would suffer the expense and consumer confusion of the compelled offering of a service that is financially nonsensical for both carriers and consumers. Waiting until the current rule is implemented to determine how many RLECs will have to charge more for a Lifeline standalone broadband product than for a bundled product is not in the public interest and engenders implementation costs that cannot be recovered if and when the Commission decided to grant a waiver for companies with such a pricing structure. The approach of having companies certify as to the existence of this situation in their study area prior to the deadline for implementation of the Lifeline standalone broadband rules meets the needs of the Commission, carriers and consumers.

**II. A Compelled Lifeline Standalone Broadband Offering, if Priced Higher Than a Bundled Offering, is Contrary to the Public Interest**

It is contrary to the public interest to compel RLECs to offer a standalone broadband product, whether specifically directed to Lifeline customers or offered to all customers, if such a

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<sup>3</sup> *Id.*, fn. 133.

service would be less affordable than an RLEC's bundled voice and broadband product.

Whether such a product is offered on a tariffed or untariffed basis, the administrative burdens of developing, offering and advertising standalone broadband for Lifeline customers would infinitely outweigh the benefits to low-income rural consumers if the product is less affordable than the bundled voice and broadband product an RLEC currently offers.

As noted in the Waiver Petition, "a number of the Rural Associations' members currently do not offer or actively market standalone broadband service to *any* customer precisely because a lack of sufficient high cost support renders this product prohibitively expensive."<sup>4</sup> The Waiver Petition states "To be clear, the Rural Associations' Petition for a temporary waiver should not be taken as an attempt to foist unwarranted voice services as part of a bundle upon Lifeline-eligible subscribers or to limit the choice of services available to low-income rural Americans. To the contrary, the Rural Associations' Petition simply underscores the fact that the current mechanisms operate to deny *all* rural consumers such choice."<sup>5</sup>

Obviously if a Lifeline standalone broadband product is more expensive than a combined voice and broadband product, it would make no financial sense for any consumer to purchase such a product. All the expense incurred by the RLEC in developing, providing and advertising such a service would be totally wasted. As noted in the Waiver Petition "Creation of a new and separate standalone BIAS offering for Lifeline-eligible consumers only solely to comply with the new regulatory requirement would require a number of RLECS to undertake significant changes to their billing systems and other internal administrative processes simply to offer a product that most – *indeed likely all* – Lifeline-eligible consumers will reject as unaffordable."<sup>6</sup>

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<sup>4</sup> See Waiver Petition at p. 4.

<sup>5</sup> *Id* at p. 7.

<sup>6</sup> *Id* at pp. 4-5. Emphasis added.

Furthermore, compelling the offering of such a product when it would be priced at a level above a bundled product contributes nothing to meeting the Commission's goal in the Lifeline Modernization Order of promoting the affordability of broadband services. And it is contrary to one of the Commission's goals in the USF high-cost proceeding of controlling the operating expenses of rate-of-return carriers.

The offering and advertising of a standalone broadband product, when its price exceeds that of a bundled voice and broadband product from the same carrier, would be very confusing to low-income customers. They could mistakenly but reasonably assume that such a product is being offered to Lifeline customers because it is more affordable than the RLEC's standard bundled offering and make a decision on subscription based on that incorrect assumption. Customer service representatives of RLECs would be placed in the difficult position of trying to explain to applicants for low-income broadband service why such a service is more expensive than when voice service is added to the package. Confidence in government would not be enhanced by the explanation that such an offering is compelled by government regulations.

### **III. The Need for the Waiver Would be Eliminated Upon the Provision of Sufficient High-Cost Universal Service Funding**

Sufficient universal service high-cost funding not only encourages the improvement and expansion broadband facilities in areas served by RLECs, it supports affordability for all customers, particularly low income customers. The high-cost and low-income regimes must work hand-in-hand to make broadband service to rural low-income consumers both available *and* affordable. Lack of sufficient high-cost funding impacts availability of facilities and also stands in the way of the implementation of otherwise sensible policies such as the requirement for a Lifeline standalone broadband service, which *should* be more affordable than a bundled voice and broadband service but unfortunately is not for many RLECs.

The Waiver Petition states that “While the Rural Associations have long advocated for reforms to the High Cost program rules to provide support for standalone BIAS as offered by RLECs and are indeed grateful for the efforts taken to set up a standalone broadband support mechanism under the High-Cost program, the overwhelming evidence in the record of that proceeding demonstrates that the unfortunate combined effect of: (1) the \$42 broadband-only loop benchmark adopted as part of the new standalone broadband support mechanism in the High-Cost program; (2) other cuts, caps, and constraints on support, and (3) other costs associated with delivering retail BIAS to rural consumers, is highly likely to result in standalone BIAS rates far beyond what any consumer (or policymaker) would consider reasonably ‘affordable.’”<sup>7</sup> The Waiver Petition goes on to state that “Quite simply, there is no realistic Lifeline discount large enough to enable a rural low-income consumer to obtain standalone broadband when the “starting price” for all rural consumers is approximately \$90 per month and far more in most cases.”<sup>8</sup>

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<sup>7</sup> *Id* at pp. 5-6.

<sup>8</sup> *Id.*

#### **IV. Conclusion**

Subject to the modification proposed by GVNW of requiring a carrier certification of the higher price of a standalone broadband service compared to a bundled voice and broadband service, the request for temporary waiver from the Rural Associations meets the “good cause” standard which grants the Commission discretion to waive application of its rules in situations where strict compliance would not be in the public interest. The request for temporary waiver should be promptly granted.

Respectfully submitted,

/s/ David B. Cohen

/s/ Jeffry H. Smith

David B. Cohen  
Senior Policy Advisor

Jeffry H. Smith  
President/CEO

GVNW Consulting, Inc.  
8050 SW Warm Springs Street, Suite 200  
Tualatin, Oregon 97062  
202-236-3947

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